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MEMO ENDORSED

April 11, 2008

BY FACSIMILE (212) 805-7924

The Honorable Sidney H. Stein
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Malik Whittaker v. City of New York, et al., 08 Civ. 03209 (SHS)

Your Honor:

I am Senior Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, representing defendant City of New York in the above-referenced matter. I write with respect to the above-referenced matter in which plaintiff alleges that his constitutional rights were violated by defendants. Defendant City respectfully requests an extension of time to answer or otherwise respond to this complaint from April 23, 2008 until June 23, 2008. Plaintiff has not consented to this request for an extension of time.

There are several reasons for seeking an enlargement of time in this matter. In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need time to investigate the allegations of the complaint. Furthermore, it is our understanding that the records of the underlying criminal actions, including police records, may have been sealed pursuant to New York Criminal Procedure Law § 160.50. Therefore, this office is in the process of forwarding to plaintiff for execution authorizations for the release of sealed arrest and criminal prosecution records so that defendant can access the information, properly assess the case, and respond to this complaint. Additionally, plaintiff has not named any individual defendant police officers as defendants, the result of which will require us to investigate to determine which police officers were involved in the underlying incident so that we may respond to the complaint.

I discussed our request for an enlargement of time with Mr. Colihan, plaintiff's counsel, by telephone earlier today. At first, he was agreeable to the requested extension. However, when we could not agree on an extension of time in a second case pending in the United States District Court for the Eastern District of New York in which we are both counsel, he retracted his consent, told me to have a nice day and to write to Your Honor for the requested enlargement of time.

No previous request for an extension has been made by defendant City of New York. Accordingly, we respectfully request that defendant City of New York's time to answer or otherwise respond to the complaint be extended to June 23, 2008.

Authorizations for release of records to be executed by April 21; initial petitioning re-arrest May 30.

Thank you for your consideration herein.


Respectfully submitted,



Mark D. Zuckerman
Senior Counsel

cc: Michael Colihan, Esq. (Via Facsimile)

SO ORDERED 4/14/08


SIDNEY H. STEIN
U.S.D.J.